

# Commentary: Missing the point on McCleary

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***Many have tried to hijack the McCleary debate but a careful reading of the court's decision makes the law's intent crystal clear. Credit: Allyce Andrew***

The most important policy debate in Washington State today, arguably in our generation, is the debate raging right now over the *McCleary vs State of Washington* case, and full state funding of education. And yet few opinion leaders seem to grasp the core issues involved. Many choose to project their own education agenda — for some it's reform, for others it's revenue — onto the McCleary canvas, missing the main point.





Former governor John Rankin Rogers stands watch before Olympia's Old Capitol Building. I know one person who would immediately understand what's really at stake in McCleary: John Rankin Rogers, the third governor of the state of Washington, a populist reformer and author of the "Barefoot Schoolboy Act," which equalized school funding across the state. A [statue of Rogers](#) stands in Sylvester Park in downtown Olympia, just blocks from the capitol dome. He knew that local funding of education led to inequality of opportunity. The fact that we have strayed from Rogers' vision, and our constitution, is what McCleary is all about.

According to Article IX of the Washington State Constitution, the state's "paramount duty" is to provide an "ample" and "uniform" education for *all* children. Unlike most states, we have never allowed a reliance on local funding to create rich school districts and poor school districts. Equal state funding, rather than unequal local funding of education is one of the policy pillars that makes Washington ... Washington. But today, many school districts are receiving up to one-third of their funding from local levies. That is what the state Supreme Court found unconstitutional.

Nevertheless, many politicians and advocates continue to raise other education issues and tie them somehow to McCleary. So let's look at [what the Supreme Court actually said](#): (The excerpts, in italics, below come from the Supreme Court's decision in McCleary, which was issued on January 5, 2012.)

### **The state is not meeting its paramount duty.**

*We affirm the trial court's declaratory ruling and hold that the State has not complied with its article IX, section 1 duty to make ample provision for the education of all children in Washington. (p. 69)*

### **Ample funding of a basic education means providing all the funding needed for local schools to give students the "opportunity" to meet the state's learning goals and standards**

*The "education" required under article IX, section 1 consists of the opportunity to obtain the knowledge and skills described in Seattle School District, ESHB 1209, and the EALRs [Essential Academic Learning Requirements]. (p. 2-3)*



*The word “ample” in article IX, section 1 provides a broad constitutional guideline meaning fully, sufficient, and considerably more than just adequate. (p. 3)*

**Reliance on local funding or federal funding to provide basic education is unconstitutional because such funding is unstable, and leads to a system that is not uniform.**

*The fact that local levy funds have been at least in part supporting the basic education program is inescapable ... Reliance on levy funding to finance basic education was unconstitutional 30 years ago ... and it is unconstitutional now. (p. 68)*

*Similarly, we find it difficult to characterize federal funding of certain education programs as a “regular and dependable tax source.” (p. 56)*

*Contrary to the State’s view, we rejected special excess levies as “dependable and regular” not only because they are subject to the whim of the electorate, but also because they are too variable insofar as levies depend on the assessed valuation of taxable real property at the local level ... Districts with high property values are able to raise more levy dollars than districts with low property values, thus affecting the equity of a statewide system. Conversely, property-poor districts, even if they maximize their local levy capacity, will often fall short of funding a constitutionally adequate education. All local-level funding, whether by levy or otherwise, suffers from this same infirmity. In short, the State’s reliance on local dollars to support the basic education program fails to provide the “ample” funding article IX, section 1 requires. (p. 56)*

**The state must fund the actual costs of providing a basic education and does not have the authority to define those costs by simply adopting funding formulas.**

*The evidence at trial showed that the State’s now-abandoned basic education funding formulas did not correlate to the real cost of amply providing students with the constitutionally required “education.” (p. 57)*

*The State disputes these assessments, contending that the funding formulas were directly correlated to the resources needed to sustain its basic education program. The State points to the Basic Education Act, which declared from its inception that “[b]asic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to” the funding formulas. As the trial court found, this would mean that “full funding is whatever the Legislature says it is,” thus allowing the State to maintain the appearance of fully funding the basic education program even though appropriations bear little resemblance to the actual level of resources needed to provide a “basic education (p. 61)*



*If the State's funding formulas provide only a portion of what it actually costs a school to pay its teachers, get kids to school, and keep the lights on, then the legislature cannot maintain that it is fully funding basic education through its funding formulas. (p. 60)*

The Court has been equally clear in terms of a remedy to this situation. In 2009, anticipating a decision in the McCleary case, the Legislature passed HB 2261, which created a process for defining a fully state funded "Prototypical School Model" by 2018 based on previous education research . The Court says fully funding this new model will, "remedy the deficiencies in the K-12 funding system."

Unfortunately, the state has made insufficient progress towards funding the new model, and has not shown the Court a plan for how it will get to full funding. That is why the state is now under a [contempt order](#) and faces the possibility of a constitutional showdown this summer if the legislature does not do something significant regarding McCleary this legislative session.

As the debate over McCleary heats up, people on both sides of the issue will raise questions about separation of powers, our state's tax structure or the need for ever more "reform" of our schools. We should not let these voices distract us from the real issue: Every child in Washington State has a constitutional right to an education that gives him or her the opportunity to thrive, regardless of where they live. That is the legacy given us by Governor Rogers and our state's founders, and that is what state lawmakers must restore and protect.